

November 13, 2006

VIA E-FILING

The Honorable Gregory M. Sleet
U.S. District Court for the District of Delaware
844 N. King Street
Wilmington, DE 19801

**RE: *Sandra Fluck v. Bella Vista Development, LLC, Bella Vista Townhome
Condominium Association Inc., Re/Max Realty Group, William J. Mitchell and
Wayne Mitchell***
C.A. No.: 1:06-cv-00188 GMS

Dear Judge Sleet:

Please accept this letter as the parties' Joint Status Report in preparation for the Scheduling Conference on November 21, 2006.

Jurisdiction and Service

This action arises from personal injuries sustained by the Plaintiff in a slip and fall accident on June 27, 2004. The Court retains jurisdiction as this action is between citizens of different states and Plaintiff contends that the amount in controversy exceeds \$75,000.00. At this time, Defendant Re/Max Realty is not yet subject to the Court's jurisdiction as formal service has not yet been perfected.

Substance of the Action

The legal basis for Plaintiff's claims is that the Defendants maintained a dangerous condition on their property, that the condition caused the injuries complained of, and that the condition causing the injury was placed there by the Defendants or allowed to remain after the Defendants knew or should have known of its existence. Defendants' defenses include: Plaintiff's failure to maintain a proper lookout; contributory/comparative negligence; failure to state a cause of action; assumption of the risk of injury; failure to exercise proper control over her bodily movements in a way that would have reasonably prevented the accident and alleged injuries; and Plaintiff's injuries/damages are the proximate result of an unavoidable accident.

Identification/Narrowing of the Issues

Liability and damages are currently in dispute.

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Relief

Plaintiff seeks compensatory damages for her pain, suffering, lost wages, and medical bills (past, present and future) in an amount in excess of the Court's diversity jurisdiction amount.

Amendment of Pleadings

Plaintiff filed an Amended Complaint on June 16, 2006. It is likely that Plaintiff will be filing a Motion to Amend the Complaint to correct the identification of Defendant Re/Max Realty Group, by naming Defendant Resort Realty Group, Inc.

Discovery

Discovery in this matter is ongoing. The parties anticipate six (6) months for completion of discovery.

Trial

A jury trial has been demanded by all parties. The parties do not believe that bifurcation of the issues will be necessary. Estimated trial length is three (3) days.

Settlement Negotiations

As liability has been denied, settlement negotiations have not yet taken place. As discovery proceeds, Plaintiff would anticipate entering into settlement negotiations. Plaintiff suggests referral to the Magistrate for mediation.

Counsel for the parties have conferred about each issue as stated above.

Respectfully Submitted,

/s/ Jennifer S. Donahue
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Attorney for Plaintiff

/s/ Stephen P. Casarino
STEPHEN P. CASARINO (ID #174)
Attorney for Defendants Bella Vista Development/Wayne Mitchell

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/s/ Charles P. Coates
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Attorney for Defendant Bella Vista Townhome/Condo. Assoc. Inc.

/s/ Roger A. Akin
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